IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 5686 of 2004

Between:
K. Babu Rao S/o suryachandra Rao
R/o Tallapudi West Godavari District

..... PETITIONER

AND

1 The Secretary, Grampanchayat, Tallapudi West Godavari District
2 The Executive Officer, Group Temples, Bangaru Papamma Devastanam,
Kovur, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ of Mandamus declaring the action of the 1st respondent is not considering the plan for construction of building permission submitted by the petitioner by his proceedings in Reference No. 9/2004 dt 3-3-2004 as illegal, arbitrary unconstitutional and contrary to the provisions of law and consequently direct the respondent to consider the applicaiton filed by the petitioner for grant of building permission.

Counsel for the Petitioner: MR.C.B.RAM MOHAN REDDY

Counsel for the Respondent No.1: MR.SRINIVAS DAMMALAPATI

Counsel for the Respondent No.2: SMT. N. INDRANI, ADVOCATE

The Court made the following:

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5686 OF 2004

ORDER:

The petitioner seeks a writ of mandamus declaring the action of the first respondent in not considering the application for grant of permission for construction of building as illegal and arbitrary and for a consequential direction to the respondents to consider the application of the petitioner and pass appropriate orders.

It is the case of the petitioner that his father purchased 170 square yards of land from Rudrapaka Venkanna and Veeraiah in 1928 that his father raised zinc sheet roofed shed and was running business, which was assigned door No.1/43 by Gram Panchayat and that the father was paying necessary taxes to the Gram Panchayat. When Department of Endowments tried to interfere with the possession of the property in R.S.No.95/1, the petitioner's father and petitioner filed O.S.No.224 of 1989 on the file of Court of the Principal District Munsif, Kovvur for permanent injunction and that the said Court passed decree on 06.11.1995 in favour of the petitioner and his father restraining the defendants therein, Bangaru Papamma Goddess of Annadevarapet, represented by its Executive Officer was also a defendant. Against the judgment and decree of the District Munsif, appeal being A.S.No.114 of 1995 was filed and the same was dismissed by the Court of Senior Civil Judge, Kovvur. Therefore, according to the petitioner, the action of the first respondent in returning the plan advising the petitioner to obtain necessary No Objection Certificate from the Department of Endowments, is illegal and arbitrary.

After receiving the application for building permission, the first respondent considered the matter and returned the plan vide Reference No.9/2004 dated 03.03.2004, which reads as under:

2) The Plan is returned herewith

3) The person in Management Bangru Papamma Temple has informed us that the land shown in the plan belongs to Bangaru Papamma Temple. That no permission for construction of building was obtained from thereon, that Sri Kunala Babu Rao has got right only to enjoy the land, that the title deed stands in the name of Devastanam and requested us not to sanction approval for construction of building. Hence, you are hereby directed to obtain no objection certificate for such construction from the Department of Endowment.

4) Signature of the applicant is not found on the plan.

Sd/-
Secretary Grade-I
Gram Panchayat, Tallapudi,
West Godavari District.

Encl: Plan, Judgment copies etc.,

A reading of the above endorsement would show that the application of the petitioner was rejected. As the Management of Bangaru Papamma Temple is claiming the land, the petitioner was advised to obtain No Objection Certificate from the Department of Endowments. Therefore, nothing prevents the petitioner to approach the concerned Assistant Commissioner or Deputy Commissioner of Endowments along with copies of the judgment and decree in O.S.No.224 of 1989 as confirmed in A.S.No.114 of 1995 to obtain No Objection Certificate from them. This writ petition is misconceived, because if the contention is accepted, the same would amount to accepting the title of the petitioner. It is well settled that this Court in exercise of jurisdiction under Article 226 of the Constitution of India does not entertain disputes concerning title to the property.

The writ petition is therefore disposed of giving liberty to the petitioner to approach the concerned authority in Department of Endowments along with copies of the judgments of the Civil Courts. As and when such request is received, the Endowments Department would do well to consider the claim of the petitioner having regard to the fact that the Management of Bangaru Papamma temple was also a defendant before the Civil Courts and pass appropriate orders in the matter, within four weeks from the date of receipt of such request.

The writ petition, with the above observations and directions, is disposed of.

(V.V.S.RAO,J)

03.09.2004.
pln

Note: Dispatch copy of the order to

The Deputy Commissioner of Endowments, Eluru and
The Assistant Commissioner of Endowments, Eluru
(Incharge of Bangaru Papamma Temple, Annadevarapet)

To

1. The Secretary, Gram Panchayat, Tallapudi, West Godavari District.
2. The Executive Officer, Group Temples, Bangaru Papamma Devastanam,
Kovur, West Godavari District.
3. The Deputy Commissioner of Endowments, Eluru
4. The Assistant Commissioner of Endowments, Eluru
(Incharge of Bangaru Papamma Temple, Annadevarapet)
5. 2 CD copies.